IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Group Art Unit: 2175
	)	
Edward Eytchison *et al.*	)	Examiner: Long, Andrea Natae
	)	
Serial No.: 10/763,701	)	**APPEAL BRIEF**
	)	
Filed: January 22, 2004	)	162 N. Wolfe Road
	)	Sunnyvale, CA 94086
For: **METHODS AND APPARATUSES**	)	(408) 530-9700
FOR PRESENTING CONTENT	)	
	)	Customer No. 28960

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Sir:

In furtherance of the Applicants' Notice of Appeal filed on September 9, 2009, this
Appeal Brief is submitted. This Appeal Brief is submitted in support of the Applicants' Notice
of Appeal, and further pursuant to the rejection mailed on June 9, 2009, in which Claims 1, 2, 4-
14, 16-25 and 27-29 were rejected. The Applicants submit this Appeal Brief to the Board of
Patent Appeals and Interferences in compliance with the requirements of 37 C.F.R. § 41.37, as
stated in *Rules of Practice Before the Board of Patent Appeals and Interferences (Final Rule)*, 69
Fed. Reg. 49959 (August 12, 2004). The Applicants contend that the rejections of Claims 1, 2,
4-14, 16-25 and 27-29 in this proceeding are in error, were previously overcome and are
overcome again by this appeal.

I.   REAL PARTIES IN INTEREST

As the assignee of the entire right, title, and interest in the above-captioned patent application, the real parties in interest in this appeal, is:

Sony Corporation, a Japanese corporation
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Tokyo, 141, Japan

Sony Electronics Inc., a corporation of the State of Delaware
1 Sony Drive
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per the assignment document filed on January 16, 2004.

II.   RELATED APPEALS AND INTERFERENCES

The Applicants are not aware of any other appeals or interferences related to the present application.

III.   STATUS OF THE CLAIMS

Claims 1, 2, 4-14, 16-25 and 27-29 are pending in this case. Claims 1, 2, 4-14, 16-25 and 27-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application Publication No. 2002/0013852 to Janik (hereinafter "Janik", a copy of which is attached as Exhibit A) in view of United States Patent Application Publication No. 2001/0021994 to Nash (hereinafter "Nash", a copy of which is attached as Exhibit B). Within this Appeal Brief, the rejections of Claims 1, 2, 4-14, 16-25 and 27-29 are appealed.

IV.   STATUS OF THE AMENDMENTS FILED AFTER FINAL REJECTION

An Amendment and Response was filed by the appellants on September 9, 2009, in response to the Final Office Action mailed on June 9, 2009. This Amendment and Response contained no amendments to the Specification or the Claims and included only a request for reconsideration in view of the included comments. No Advisory Action or other response was received. Therefore, the claims on appeal are as filed on April 30, 2009 in the Amendment and Request for Continued Examination (RCE) following the Office Action mailed January 15, 2009.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The invention disclosed in the present application number 10/763,701 is directed to methods and apparatuses of organizing and prefetching audio/visual content ("content") to minimize the lag time in making content available to users. [Present Specification, page 2, lines 1-2; page 3, lines 3-8]. An environment within which the methods and apparatuses are implemented comprises a network, a server coupled to the network, and a plurality of clients coupled to the network. [Present Specification, Fig. 1; page 5, lines 16-22]. The clients and the server each have a processor, memory, a network interface, a user interface, and one or more applications. [Present Specification, page 6, lines 1-16]. A system within the presently claimed invention is able to be either a client or a server. [Present Specification, page 7, lines 16-22]. A system includes applications, and the applications include a prefetch buffer for storing the content that is prefetched for use by the user. [Present Specification, Fig. 6; page 8, lines 1-16]. Importantly, prefetching in the presently claimed invention means to prefetch the relevant content and place it into a buffer in an application such that the content is available to the user as quickly as possible, thereby reducing the lag time in making content available to the user. [Present Specification, Fig. 6]. Content is able to be prefetched based on the user choosing a current display window for viewing, the user scrolling through subsequent windows. As the user scrolls through the various display windows, the prefetched audio/visual content dynamically changes. [Present Specification, page 17, lines 5-17]. Other user preferences for prefetching content

include prefetching by genre [Present Specification, page 14, lines 7-10], by preferences stored within a content list [Present Specification, page 13, lines 10-19], and by content most frequently accessed by a user [Present Specification, page 8, line 17-22; page 9, lines 12-15]. Frequency of access of specific content, frequency of selection of a genre of content, frequency of selection from specific content lists, selecting a genre for previewing, scrolling through content lists within a genre are all examples of a use pattern.

The elements of Claim 1, directed to one embodiment of the presently claimed invention, are described in the Specification at least at page 16, line 12 to page 21, line 21, page 7, and the accompanying Figures 6, 7 and 8. The method described there comprises identifying a preference and a use pattern corresponding to a user, detecting a current display window (625, 630, 635, 640, 645), prefetching at least one audio/visual content in response to the current display window (625, 630, 635, 640, 645), the preference and the use pattern, and setting a prefetch parameter for a frequency of prefetching in response to the preference.

The elements of Claim 12, directed to one embodiment of the presently claimed invention, are described in the Specification at least at page 5, line 16 to page 18, line 10, page 18, line 11 to page 21, line 21 and the accompanying Figures 1-8. The electronic device-implemented system described there comprises means for identifying a preference and a use pattern, means for organizing audio/visual content using a parameter, means for detecting a current display window (625, 630, 635, 640, 645) being displayed on a display, means for prefetching at least one audio/visual content from a memory device in response to the current display window (625, 630, 635, 640, 645), the preference and the use pattern, and means for setting a prefetch parameter for a frequency of prefetching in response to the preference.

Means for identifying a preference and a use pattern is shown in Figure 3. In one embodiment the system (300) includes applications (320), a presentation layer (320), an audio/visual services module (330), a non-audio/visual services module (340), a protocol translation layer (350), a universal plug and play network (360), and a non-universal plug and play network (370). Overall, the system (300) is configured to allow the applications (310) to

seamlessly interface through the network (360) the network (370). In one instance, the presentation layer (320) takes into account the preferences and use patterns of the particular user. [Present Specification, page 8, lines 1-20]. In one embodiment, the identity of the user is authenticated through the use of a password, a personal identification number, a biometric parameter, or the like. A preference is loaded corresponding to the user. For example, the preference includes parameters such as genre selections, and play lists. These parameters are detected through the actions of the each user. Accordingly, the preference is unique to each particular user. [Present Specification, page 18, lines 13-19].

Means for organizing audio/visual content using a parameter is shown in Figure 3. In one embodiment the system (300) includes applications (320), a presentation layer (320), an audio/visual services module (330), a non-audio/visual services module (340), a protocol translation layer (350), a universal plug and play network (360), and a non-universal plug and play network (370). Overall, the system (300) is configured to allow the applications (310) to seamlessly interface through the network (360) the network (370). [Present Specification, page 8, lines 1-9]. Figure 4 is a simplified block diagram illustrating exemplary services, devices a, and content organized into classes. In one embodiment, these classes are utilized by the system (300) to encapsulate and categorize information corresponding to unique content, devices, or network services relating to the presentation layer (320). In one embodiment, the classes include both device classes and content classes. The device classes allow devices across heterogeneous networks to be managed and display of information regarding the devices. The content classes are configured to manage the audio/visual content, pre-fetch audio/visual content, and organize the audio/visual content based on user patterns. [Present Specification, page 11, lines 12-21]. In yet another embodiment, services and/or content are searched by various parameters. Exemplary parameters are found in the description of the different classes illustrated in Figure 4. [Present Specification, page 20, lines 9-11].

Means for detecting a current display window (625, 630, 635, 640, 645) being displayed on a display is shown in Figures 3. In one embodiment the system (300) includes applications

(320), a presentation layer (320), an audio/visual services module (330), a non-audio/visual services module (340), a protocol translation layer (350), a universal plug and play network (360), and a non-universal plug and play network (370). Overall, the system (300) is configured to allow the applications (310) to seamlessly interface through the network (360) the network (370). [Present Specification, page 8, lines 1-9]. In Block 740, the current display window is detected. In some embodiments, the current display window is represented by content presently viewed by the user. In other embodiments, the current display window is represented by the content that is selected by the user. [Present Specification, page 19, lines 6-9].

Means for prefetching at least one audio/visual content from a memory device in response to the current display window (625, 630, 635, 640, 645), the preference and the use pattern is shown in Figure 3. In one embodiment the system (300) includes applications (320), a presentation layer (320), an audio/visual services module (330), a non-audio/visual services module (340), a protocol translation layer (350), a universal plug and play network (360), and a non-universal plug and play network (370). Overall, the system (300) is configured to allow the applications (310) to seamlessly interface through the network (360) the network (370). In another embodiment, the audio/visual content is pre-fetched according to the use patterns of the user. [Present Specification, page 8, lines 1-22]. The content access class (430) assists in facilitating searches, discovery, and organization of content. In one embodiment, the content access class (430) content is grouped using a PrefetchContentList command that builds a content list based on preference information corresponding to a particular user. In one embodiment, the preference information is stored within the system (300). For example, the PrefetchContentList command is initiated when a particular user is identified. In another embodiment, the PrefetchContentList command is initiated and updated during a session with the same user. In some embodiments, prefetching content is performed based on the preferences stored within the content list. [Present Specification, page 13, lines 10-19].

Means for setting a prefetch parameter for a frequency of prefetching in response to the preference is shown in Figure 3. In one embodiment the system (300) includes applications

(320), a presentation layer (320), an audio/visual services module (330), a non-audio/visual services module (340), a protocol trasnaltion layer (350), a universal plug and play network (360), and a non-universal plug and play network (370). Overall, the system (300) is configured to allow the applications (310) to seamlessly interface through the network (360) the network (370). [Present Specification, page 8, lines 1-9]. In Block 830, parameters are set for the prefetching function. For example, parameters for the prefetching function include the range in which the audio/visual content is prefetched, the frequency in which prefetching occurs, and the sensitivity in responding to user activity. [Present Specification, page 20, lines 16-19].

The elements of Claim 13, directed to one embodiment of the presently claimed invention, are described in the Specification at least at page 16, line 12 to page 21, line 21, page 7, and the accompanying Figures 6, 7 and 8. The method described there comprises detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window (625, 630, 635, 640, 645), and prefetching a content item based on the prefetch parameter, the current display window (625, 630, 635, 640, 645) and a use pattern.

The elements of Claim 23, directed to one embodiment of the presently claimed invention, are described in the Specification at least at page 8, line 1 to page 11, line 11, page 15, line 19 to page 21, line 21, and the accompanying Figures 3 and 5-8. The electronic device-implemented system described there comprises a media container (510, 520, 530, 540, 550) configured for storing an audio/visual content item, a prefetch buffer (315) configured for temporarily storing a prefetched audio/visual content item within a memory device and a presentation layer (320) configured for transmitting the prefetched audio/visual content item to the prefetch buffer (315) based on a user's preference, a current display window (625, 630, 635, 640, 645) and a use pattern, wherein the presentation layer (320) transmits the prefetched audio/visual content item based on a preset frequency of prefetching and further wherein the current display window (625, 630, 635, 640, 645) is displayed on a display.

The elements of Claim 27, directed to one embodiment of the presently claimed invention, are described in the Specification at least at page 16, line 12 to page 21, line 21, page 7, and the accompanying Figures 6, 7 and 8. The method described there comprises detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window (625, 630, 635, 640, 645), and prefetching a content item based on the prefetch parameter, the current display window (625, 630, 635, 640, 645) and a use pattern at any time and in response to the detected activity.

VI. GROUNDS OF REJECTION AND OTHER MATTERS TO BE REVIEWED ON APPEAL

The following issues are presented in this Appeal Brief for review by the Board of Patent Appeals and Interferences:

1. Whether Claims 1, 2, 4-14, 16-25 and 27-29 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Janik in view of Nash.

VII.   ARGUMENT

Grounds for Rejection

Within the Office Action, Claims 1, 2, 4-14, 16-25 and 27-29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Janik in view of Nash.

Outline of Arguments

In the discussion that follows, the Applicants first discuss the teachings of Janik, the teachings of Nash and the teachings of the combination of Janik and Nash. As discussed in detail below, the combination of Janik and Nash does not teach prefetching at least one audio visual content in response to the user selecting a current display window.

1.   Janik does not teach detecting a current display window and prefetching content in response to detecting the current display window. Janik also does not teach prefetching at least one audio/visual content in response to the current display window, the preference, and the use pattern. Further, Janik does not teach detecting an activity. Moreover, Janik does not teach prefetch buffers.

Janik teaches a system for *optimizing wide area network bandwidth* when delivering Internet and digital content to a variety of thin clients. [Janik, Abstract; ¶ 0027]. The system provides user specified channels for moving content from the Internet and local storage device to the user, via a caching gateway and a local area network. Software residing on a personal computer, and/or in combination with a storage gateway provides content distribution, management, and interaction functions. [Janik, ¶ 0002]. The system automatically or under the control of the user sends the content to client devices for presentation to the end user. [Janik, ¶ 0027]. Janik comprises two sub-applications: a core module and a graphics user interface (GUI) module. [Janik, ¶ 0084]. Selections made by the user in the GUI, such as launching specific device content, are communicated to the core module where they are acted upon. [Janik, ¶¶ 0094, 0095]. The core provides such functions as streaming of content from the Internet to client

devices, managing the local storage (cache) of content from the Internet, scheduling of time-based automation of accessing, caching, and streaming of content, and accessing and communicating with devices and the GUI. [Janik, ¶ 0098]. The system operates in three modes: (1) setup, (2) real-time user controlled content/data delivery, and (3) automatic content/data delivery. [Janik, ¶ 0129]. A scheduling function may be used to download content from a web server *to the local cache* based on an internal timer. Janik teaches that the client boots up and dials an Internet service provider to download content, and then shuts back down. [Janik, ¶¶ 0192, 0193]. However, Janik's scheduling function does not teach the application *prefetch buffers* of the presently claimed invention. Janik does not teach *detecting a current display window* and *prefetching content in response to detecting the current display window.*

As a result, Janik also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Because Janik does not teach detecting the content of the current display window, it is impossible for Janik to teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Further, the "prefetching" as taught in Janik is merely time-based automation of providing content to a user. Thus, this "prefetching" of Janik is not the same as the currently claimed invention that prefetches at least one audio/visual content in response to the current display window, the preference and the use pattern. Moreover, Janik does not teach detecting an activity.

2. Nash does not teach detecting a current display window and prefetching content in response to detecting the current display window. Nash also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Furthermore, Nash is non-analogous art.

Nash teaches a television system which enables broadcasters to target advertisements at viewers. [Nash, Abstract, Fig. 1, elements 100, 102]. Broadcasters utilize a television transmission apparatus to broadcast video, audio and data signals, the data signals comprising

advertisement information to be transmitted to a user's receiver. [Nash, ¶ 0005]. Advertising information comprises reviews of advertisers' products by a professional panel of critics, colleagues, friends, and others. [Nash, ¶ 0006]. The reviews are used in conjunction with user information to *automatically select advertisements* for the user to view as a means of convincing the user to buy the advertiser's products. [Nash, ¶ 0008]. A processor in the receiver is used to decode the advertising information and, together with the user information, *determines which advertisements are to be transmitted to the user.* [Nash, ¶ 0020]. Nash teaches a broadcast system. [See Nash, ¶ 0005] Broadcast content cannot, by definition, be prefetched. Because broadcast content is transmitted in real-time, broadcast content is not available to a user (for prefetching) until after it is broadcast. Thus, Nash does not teach *detecting a current display window* and *prefetching content in response to detecting the current display window.* Further, as a result, Nash also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Indeed, because Nash does not teach detecting the content of the current display window, it is impossible for Nash to teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern.

Furthermore, non-analogous art is being cited to form the basis of the rejection. The Applicant's presently claimed invention relates to organizing and prefetching audio/visual content in systems according to a current display window, preference and use pattern. On the other hand, Nash relates to determining television advertisements of interest to a viewer base on information entered by the viewer or information derived from monitoring the viewing habits of the viewer. [Nash, Abstract, Fig. 1, elements 100, 102]. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Determining television advertisements to present to a viewer is clearly not in the same field as organizing and prefetching audio/visual content in systems according to a current

display window, preference and use pattern. Furthermore, determining television advertisements to present to a viewer is not reasonably pertinent to the problem of finding and accessing specific audio/visual content and making available to the user while minimizing lag time. Without using the benefit of hindsight, it would not have been obvious to a person having ordinary skill in the relevant art to look to television apparatus and advertising industry to find ideas to improve upon then known methods of organizing and prefetching audio/visual content in systems according to a current display window, preference and use pattern. Accordingly, Nash is non-analogous art and cannot be relied upon.

    3.   <u>The combination of Janik and Nash is improper. Even if considered proper, the combination of Janik and Nash does not teach prefetching at least one audio/visual content in response to the user selecting a current display window. The combination of Janik and Nash also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern.</u>

There is no motivation to warrant the combination of Janik and Nash. There is no hint, teaching or suggestion in either of Janik and Nash to warrant their combination.

This is a classic case of impermissibly using hindsight to make a rejection based on obviousness. The Court of Appeals for the Federal Circuit has stated that "it is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." <u>In Re Fritch</u>, 972 F.2d, 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). As discussed above, neither Janik, Nash nor their combination teach detecting a current display window according to the presently claimed invention. Further, neither Janik, Nash nor their combination teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern, as claimed. Within the Office Action of June 9, 2009, it is recognized that Janik does not teach identifying a user pattern corresponding to a user or prefetching content in response to

the user pattern. [Office Action of June 9, 2009, page 3] Within the Office Action of June 9, 2009, it is stated that

> it would have been obvious to one of ordinary skill in the art to have included the use pattern of Nash with the teaching of Janik. [Office Action of June 9, 2009, page 4]

It is only with the benefit of the present claims, as a "template" that there is any motivation to combine Janik with Nash. No such motivation can be found in the teachings of either of the references. To conclude that the combination of Janik and Nash is obvious, based on the teachings of these references, is to use hindsight based on the teachings of the present invention and to read much more into Janik and Nash than their actual teachings. This is simply not permissible based on the directive from the Court of Appeals for the Federal Circuit.

It is well settled that to establish a *prima facie* case of obviousness, three basic criteria must be met:

1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

2) there must be a reasonable expectation of success; and

3) the prior art reference, or references, must teach or suggest all the claim limitations. MPEP § 2143.

The burden of establishing a *prima facie* case of obviousness based on the teachings of Janik and Nash has not been met.

There is no motivation to combine the teachings of Janik and Nash. Janik relates to providing content, management, and interactivity for thin client devices. [Janik, Abstract; ¶ 0027]. Nash teaches determining television advertisements to present to a viewer. [Nash, Abstract, Fig. 1, elements 100, 102]. There is no hint, teaching or suggestion in Janik and Nash to motivate one skilled in the art to combine their teachings. It is only with the benefit of the presently claimed invention as a "template" that one would consider combining Janik and Nash.

Even if considered proper, the combination of Janik and Nash does not teach detecting a current display window according to the presently claimed invention. Further, neither Janik, Nash nor their combination teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern.

Janik, Nash and their combination do not teach prefetching at least one audio visual content *in response to the user selecting a current display window*. As noted within the Office Action of June 9, 2009, Janik teaches a scheduled retrieval of content. [See Office Action of June 9, 2009, pages 14-15] As discussed above, in Janik the client boots at a scheduled time and dials up the ISP to download content, then shuts down. As also discussed above, Nash cannot prefetch its broadcast content. As further discussed above, the presently claimed invention is directed to *minimizing lag time* in delivery of content to a user. For example, when a user selects a window containing a content listing, selecting the window is one indication of a user preference for the content listed in the window. Selecting the window makes the window the *current window*, triggering prefetching of the content, thereby minimizing the lag time in delivering that content to the user. Janik, Nash, and their combination do not teach prefetching at least one audio/visual content in response to the user selecting a current display window.

Within the Office Action of June 9, 2009, it is stated that the limitations "detecting a current display window", "prefetching at least one audio/visual content in response to the current display window, the preference and the user pattern", "identifying a use pattern", and "detecting an activity" fail to comply with 37 C.F.R. 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. [Office Action of June 9, 2009, page 15]. The Applicants respectfully disagree.

"Detecting a current display window" is a limitation not taught by the teachings of Janik and Nash. As discussed above, Nash cannot prefetch its broadcast content. Prefetching content is relevant to Janik, but differs from the presently claimed invention in that Janik teaches scheduled retrieval of content from the Internet at a specific time. In Janik, the scheduled

retrieval is completely automated, without user interaction. [See Janik, ¶ 0105] At the scheduled time, the client boots up from its power-off or sleep-state and dials an ISP to retrieve content, then shuts back down. [Janik, ¶¶ 0192, 0193]. As discussed above, the presently claimed invention prefetches content into an application buffer *in response to detecting a current display window*. The presently claimed invention is patentably distinguishable over Janik, Nash, and their combination at least based on the combination of *detecting a current display window*, and *prefetching at least one audio/visual content in response to the current display window*.

Within the Office Action of June 9, 2009, it is stated that the combination of Janik and Nash is not improper because both references seek to improve selection of content that is relevant to a user, and that the motivation to combine the references is to improve relevancy of the content that is retrieved as an end result. [Office Action of June 9, 2009, page 17]. The Applicants respectfully disagree.

Janik teaches methods and apparatus to optimize wide area network bandwidth when delivering Internet content and other digital content to multiple clients by caching requested content in a local media cache. Nash teaches methods of inserting advertising information into a broadcast stream to target advertising to a specific viewer. The stated motivation to combine is not present; Janik and Nash are not analogous art. Further, even if the combination of Janik and Nash were proper, for at least the reasons stated above, Janik, Nash and their combination do not teach or make obvious the presently claimed invention.

4.   The claims distinguish over Janik, Nash and their combination.

The claims are grouped separately below to indicate that they do not stand or fall together.

a.   Claim 1

The independent Claim 1 is directed to a method comprising identifying a preference and a use pattern corresponding to a user, detecting a current display window, triggering prefetching at least one audio/visual content into an application buffer in response to detecting the current display window, the preference and the use pattern, and setting a prefetch parameter for a frequency of prefetching in response to the preference. As described above, the combination of Janik and Nash is improper. As also described above, Janik, Nash and their combination do not teach detecting a current display window. As further described above, Janik, Nash, and their combination do not teach prefetching at least one audio/visual content *in response to the current display window, the preference and the use pattern.* For at least these reasons, the independent Claim 1 is allowable over the teachings of Janik, Nash, and their combination.

b.   Claims 2 and 4-11, 28 and 29

Claims 2, 4-11, 28, and 29 are all dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Janik, Nash, and their combination. Accordingly, Claims 2, 4-11, 28, and 29 are all also allowable as being dependent on an allowable base claim.

c.   Claim 12

The independent Claim 12 is directed to an electronic device-implemented system comprising a processor and a memory, wherein the memory is programmed with instructions comprising an application, and further wherein the memory comprises an application buffer, means for identifying a preference and a use pattern, means for organizing audio/visual content using a parameter, means for detecting a current display window being displayed on a display,

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means for prefetching at least one audio/visual content from a memory device into the application buffer in response to the current display window, the preference and the use pattern, and means for setting a prefetch parameter for a frequency of prefetching in response to the preference. As described above, the combination of Janik and Nash is improper. As also described above, Janik, Nash and their combination do not teach detecting a current display window. As further described above, Janik, Nash, and their combination do not teach prefetching at least one audio/visual content *in response to the current display window, the preference and the use pattern.* For at least these reasons, the independent Claim 12 is allowable over the teachings of Janik, Nash, and their combination.

        d.   Claim 13

The independent Claim 13 is directed to a method comprising detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window, and triggering prefetching a content item into an application buffer based on the prefetch parameter, the current display window and a use pattern. As described above, the combination of Janik and Nash is improper. As also described above, Janik, Nash and their combination do not teach detecting a current display window. As further described above, Janik, Nash, and their combination do not teach prefetching a content item *based on the prefetch parameter, the current display window and a use pattern.* For at least these reasons, the independent Claim 13 is allowable over the teachings of Janik, Nash, and their combination.

        e.   Claims 14 and 16-22

Claims 14 and 16-22 are all dependent on the independent Claim 13. As described above, the independent Claim 13 is allowable over the teachings of Janik, Nash, and their

combination. Accordingly, Claims 14 and 16-22 are all also allowable as being dependent on an allowable base claim.

      f.   Claim 23

The independent Claim 23 is directed to an electronic device-implemented system comprising a media container configured for storing an audio/visual content item, a prefetch buffer configured for temporarily storing a prefetched audio/visual content item within a memory device and a presentation layer configured for transmitting the prefetched audio/visual content item to the prefetch buffer based on a user's preference, a current display window and a use pattern, wherein the presentation layer transmits the prefetched audio/visual content item based on a preset frequency of prefetching and further wherein the current display window is displayed on a display. As described above, the combination of Janik and Nash is improper. As also described above, Janik, Nash, and their combination do not teach prefetching an audio/visual content item to the prefetch buffer based on a user's preference, a current display window and a use pattern. For at least these reasons, the independent Claim 23 is allowable over the teachings of Janik, Nash, and their combination.

      g.   Claims 24 and 25

Claims 24 and 25 are both dependent on the independent Claim 23. As described above, the independent Claim 23 is allowable over the teachings of Janik, Nash, and their combination. Accordingly, Claims 24 and 25 are both also allowable as being dependent on an allowable base claim.

     h.   Claim 27

The independent Claim 27 is directed to a method comprising detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window, and prefetching a content item based on the prefetch parameter, the current display window and a use pattern at any time and in response to the detected activity. As described above, the combination of Janik and Nash is improper. As also described above, Janik, Nash and their combination do not teach detecting a current display window. As further described above, Janik, Nash, and their combination do not teach prefetching a content item based on the prefetch parameter, the current display window and a use pattern. For at least these reasons, the independent Claim 27 is allowable over the teachings of Janik, Nash, and their combination.

5.   CONCLUSION

For the above reasons, it is respectfully submitted that the Claims 1, 2, 4-14, 16-25 and 27-29 are allowable over the cited prior art references. Therefore, a favorable indication is respectfully requested.

Respectfully submitted,
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VIII. CLAIMS APPENDIX

This appendix includes a list of the claims under appeal.

1. A method comprising:

    identifying a preference and a use pattern corresponding to a user;

    detecting a current display window;

    triggering prefetching at least one audio/visual content into an application buffer in response to detecting the current display window, the preference and the use pattern; and

    setting a prefetch parameter for a frequency of prefetching in response to the preference.

2. The method according to claim 1, further comprising setting a prefetch parameter for a range of display windows in response to the preference.

3. (canceled).

4. The method according to claim 1, further comprising identifying the user associated with the preference.

5. The method according to claim 1, wherein the audio/visual content includes one of a document, an image, audio data, and video data.

6. The method according to claim 1, wherein the preference includes viewing habits and selected genres.

7. The method according to claim 1, wherein the prefetching further comprises transmitting the audio/visual content to a prefetching buffer.

8.   The method according to claim 1, wherein the prefetching further comprises updating the audio/visual content based on the current display window.

9.   The method according to claim 1, wherein the preference includes a play list.

10.   The method according to claim 1, wherein the preference includes a genre selection.

11.   The method according to claim 1, wherein the preference includes a plurality of audio/visual content.

12.   An electronic device-implemented system comprising:

        a processor and a memory, wherein the memory is programmed with instructions comprising an application, and further wherein the memory comprises an application buffer;

        means for identifying a preference and a use pattern;

        means for organizing audio/visual content using a parameter;

        means for detecting a current display window being displayed on a display;

        means for prefetching at least one audio/visual content from a memory device into the application buffer in response to the current display window, the preference and the use pattern; and

        means for setting a prefetch parameter for a frequency of prefetching in response to the preference.

13.   A method comprising:

        detecting an activity;

        setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching;

        detecting a current display window; and

triggering prefetching a content item into an application buffer based on the prefetch parameter, the current display window and a use pattern.

14.   The method according to claim 13, wherein the prefetch parameter includes a range of display windows.

15.   (canceled).

16.   The method according to claim 13, further comprising selecting at least one audio/visual content based on a search parameter.

17.   The method according to claim 16, wherein the search parameter is a prefetchcontentlist command.

18.   The method according to claim 16, wherein the search parameter is a getcontentlist command.

19.   The method according to claim 16, wherein the search parameter is a getcontentbygenre command.

20.   The method according to claim 16, wherein the search parameter is a getmediacontainer command.

21.   The method according to claim 13, further comprising updating the prefetch parameter based on an additional activity.

22.   The method according to claim 13, further comprising prefetching at least one additional audio/visual content based on a changing current display window.

23.   An electronic device-implemented system comprising:

        a media container configured for storing an audio/visual content item;

        a prefetch buffer configured for temporarily storing a prefetched audio/visual content item within a memory device; and

        a presentation layer configured for transmitting the prefetched audio/visual content item to the prefetch buffer based on a user's preference, a current display window and a use pattern, wherein the presentation layer transmits the prefetched audio/visual content item based on a preset frequency of prefetching and further wherein the current display window is displayed on a display.

24.   The system according to claim 23, further comprising an application configured to utilize the prefetched audio/visual content.

25.   The system according to claim 23, wherein the presentation layer transmits the prefetched audio/visual content item based on a preset range of display windows.

26.   (canceled).

27.   A method comprising:

       detecting an activity;

       setting a prefetch parameter based on the detected activity, wherein the prefetch

parameter includes a frequency of prefetching;

       detecting a current display window; and

       prefetching a content item based on the prefetch parameter, the current display window

and a use pattern at any time and in response to the detected activity.

28.   The method according to claim 1 wherein the audio/visual content is organized according

       to the use pattern of the user.

29.   The method according to claim 1 wherein the audio/visual content utilized more

       frequently is stored in a more quickly accessible location.

IX. EVIDENCE APPENDIX

STATEMENT

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), the following is a statement setting forth where in the record the evidence of this appendix was entered by the examiner:

Evidence Description:	Where Entered:
U.S. Pat. Pub. No. 2001/0021994 A1	Office Action mailed January 15, 2009
U.S. Pat. Pub. No. 2002/0013852 A1	Office Action mailed February 26, 2007
Office Action mailed June 9, 2009	Examiner Office Action

X. RELATED PROCEEDINGS APPENDIX

There are no related proceedings.